

§ 201.16

that have been paid must be in the loan file if an insurance claim is made.

(b) *Amount of late charge.* The late charge shall not exceed the lesser of five percent of each installment of principal and interest, up to a maximum of \$10 per installment for any property improvement loan and \$15 per installment for any manufactured home loan, or the maximum amount permitted by applicable State law.

(c) *Method of payment.* Payment of any late charge cannot be deducted from the monthly payment for principal and interest, but must be an additional charge to the borrower.

(d) *Daily interest in lieu of late charges.* In lieu of late charges, the note may provide for interest to accrue on installments in arrears on a daily basis at the interest rate in the note.

[54 FR 36264, Aug. 31, 1989]

§ 201.16 Default provision.

The loan note shall contain a provision for acceleration of maturity, at the option of the holder, upon a default by the borrower.

§ 201.17 Prepayment provision.

The note shall contain a provision permitting full or partial prepayment of the loan without penalty, except that the borrower may be assessed reasonable and customary charges for recording a release of the lender's security interest in the property, if permitted by State law.

[61 FR 19797, May 2, 1996]

§ 201.18 Modification agreement or repayment plan.

(a) *Modification agreement or repayment plan.* A written but unrecorded modification agreement acceptable to the lender and executed by the borrower may be used in lieu of refinancing of a delinquent or defaulted loan to reduce or increase the monthly payment, but not to increase the term or the interest rate, so as to assure that the delinquent or defaulted loan is brought current before or by the end of the loan term. A modification agreement may also be used in lieu of refinancing in connection with a loan that is current to effect a reduction in the interest rate, and in the monthly pay-

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ment, for the remainder of the loan term. When a modification agreement is used, no insurance reporting is required under § 201.30.

(b) *Repayment plan.* The lender may elect to negotiate an informal repayment plan with the borrower to enable a temporary delinquency to be cured within a short period of time. The lender may document the terms of the repayment plan by sending a letter to the borrower reciting the terms of their agreement. When a repayment plan is used, no insurance reporting is required under § 201.30.

[52 FR 33406, Sept. 3, 1987, as amended at 54 FR 10537, Mar. 14, 1989]

§ 201.19 Refinanced and assumed loans.

(a) *Conditions on refinancing.* (1) An existing insured property improvement loan or manufactured home loan may be refinanced without an advance of funds only under the following conditions:

(i) A loan that is in default may not be refinanced for an amount greater than the original principal balance of the loan;

(ii) The refinancing of a loan for the original borrower shall be subject to all of the requirements of this part, except §§ 201.20(b) and (c), 201.21(b) through (e), 201.22, 201.23, and 201.26;

(iii) If there are co-makers or co-signers on the original note, the lender shall require the same co-makers or co-signers on the refinanced note, unless the lender obtains the Secretary's approval to release a co-maker or co-signer from liability under the note in accordance with § 201.24(e); and

(iv) A loan that was assumed in accordance with paragraph (c) of this section may be refinanced, subject to all of the requirements of this part except §§ 201.20(b) and (c), 201.21(b) through (e), 201.22, 201.23, and 201.26, as long as the original borrower and any intervening assumptors were released from liability for repayment of the loan at the time the loan was assumed. A lender may not refinance a previously assumed loan under any other circumstances, unless the requirements of § 201.22 are also met and the Secretary has approved a release of the original borrower and any intervening